

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 290 (Sub-No. 334X)**

**Norfolk Southern Railway Company – Abandonment Exemption –  
in Calhoun County, Ala.**

**BACKGROUND**

In this proceeding, Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Calhoun County, Alabama. The rail line proposed for abandonment extends 1.81 miles between Milepost LAM 508.08 and Milepost LAM 509.89 in the City of Anniston (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

**ENVIRONMENTAL REVIEW**

NSR submitted an Environmental Report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].<sup>1</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

***Diversion of Traffic***

According to NSR, no local or overhead traffic has moved over the Line for at least two years. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

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<sup>1</sup> The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 290 (Sub-No. 334X).

## *Salvage Activities*

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. Road crossings are typically removed and remediated. If abandonment authority is granted in this proceeding, NSR states that it would salvage rail and ties along the Line, but would not remove ballast, or alter the underlying roadbed. The proposed abandonment would also result in the removal of one bridge, located near milepost LAM 508.37 south of West 13<sup>th</sup> Street in the City of Anniston.

The U.S. Natural Resource Conservation Service (NRCS) submitted comments stating that the proposed project area includes some land that may be classified as prime farmland. However, because the proposed abandonment is located within the city of Anniston corporate limits, the project area would be exempt from the definition of prime farmland under NRCS rules and from the requirements regarding the conservation of such land. Accordingly, no mitigation regarding the conservation of agricultural land is recommended.

In its review of available geospatial data, OEA has concluded that the Line does not cross and is not immediately adjacent to any wetlands.<sup>2</sup> The Line does appear to cross two streams, as well as an area designated by the Federal Emergency Management Agency as a 100-year flood plain.<sup>3</sup> However, given the limited scope of proposed salvage activities, specifically the absence of any anticipated disturbance of soil or hydrological features, OEA believes that negative impacts to waterways and floodplains are unlikely to occur as a result of the proposed abandonment.

The U.S. Environmental Protection Agency (EPA) submitted comments stating that the information submitted by NSR was insufficient to determine whether a permit under Section 402 of the Clean Water Act (33 U.S.C. § 1251) would be required for the proposed abandonment. EPA requests that NSR consult with the Alabama Department of Environmental Management (ADEM) regarding potential storm water concerns and the City of Anniston regarding the requirements of the Municipal Separate Storm Sewer System (MS4) requirements. Comments from each of these agencies are discussed below.

In its comments, ADEM states that its regulations require all construction and land disturbance projects to implement appropriate and effective Best Management Practices (BMPs) for the control of pollutants in storm water run-off, regardless of permit status or project size. Accordingly, OEA will recommend a condition requiring NSR to consult with ADEM regarding

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<sup>2</sup> U.S. Fish and Wildlife Service, National Wetlands Inventory, <http://www.fws.gov/wetlands/> (last visited February 20, 2013).

<sup>3</sup> Federal Emergency Management Agency, Mapping Information Platform, <https://hazards.fema.gov/femaportal/wps/portal> (last visited February 20, 2013).

the implementation of BMPs and to comply with all reasonable requirements in order to prevent or mitigate any potential impacts to waterways.

ADEM also states that a National Pollutant Discharge Elimination System (NPDES) permit is required for all projects that would result in a land disturbance equal to or in excess of one acre in area. NSR states that, because the proposed abandonment does not involve the removal of ballast or regrading of the right-of-way, the total land disturbance associated with the project would be less than the one acre threshold. OEA concurs with NSR's determination that a NPDES permit would not be required for the proposed abandonment.

The City of Anniston (The City) submitted comments stating that the proposed abandonment would have no negative impact on the city or its development plans. The City also states that the proposed abandonment may provide opportunities for new transportation corridors, pedestrian areas, or biking trails in conjunction with several ongoing development projects in the vicinity of the Line.

The U.S. Army Corps of Engineers (Corps) submitted comments stating that the project as proposed would not require a permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344). OEA concurs with the Corps' determination and believes that, if the condition described above is imposed, the proposed abandonment would not result in the discharge of fill or other materials in waters of the United States.

NSR states that it has no knowledge of any hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the right-of-way. OEA review has confirmed that there are no listed Superfund sites in the vicinity of the Line.<sup>4</sup> Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

In its review of available geospatial data, OEA has determined that the proposed abandonment is not located in an area designated as critical habitat for threatened and endangered species by the U.S. Fish and Wildlife Service (USFWS).<sup>5</sup> OEA also conducted a search of the USFWS Environmental Conservation Online System in order to identify any federally listed endangered or threatened species that may be present in the vicinity of the Line.<sup>6</sup> The table below shows the protected species known or thought to occur in the county in which the proposed abandonment is located.

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<sup>4</sup> Environmental Protection Agency, NEPAassist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited February 20, 2013).

<sup>5</sup> U.S. Fish and Wildlife Service, Critical Habitat Portal, <http://criticalhabitat.fws.gov/crithab> (last visited February 20, 2013).

<sup>6</sup> U.S. Fish and Wildlife Service, Environmental Conservation Online System, <http://ecos.fws.gov/ecos/indexPublic.do> (last visited February 20, 2013).

Protected Species in Calhoun County, Alabama			
Group	Common Name	Scientific Name	Status
Mammals	Indiana bat	<i>Myotis sodalist</i>	Endangered
	Gray bat	<i>Myotis grisescens</i>	Engangered
Birds	Red-cockaded woodpecker	<i>Picoides borealis</i>	Endangered
Fishes	Pygmy Sculpin	<i>Cottus paulus (pygmaeus)</i>	Threatened
	Blue shiner	<i>Cyprinella caerulea</i>	Threatened
Clams	Southern acornshell	<i>Epioblasma othcaloogensis</i>	Endangered
	Upland combshell	<i>Epioblasma metastriata</i>	Endangered
	Finelined pocketbook	<i>Lampsilis altilis</i>	Threatened
	Ovate clubshell	<i>Pleurobema perovatum</i>	Endangered
Snails	Southern clubshell	<i>Pleurobema decisum</i>	Endangered
	Triangular Kidneyshell	<i>Ptychobranhus greenii</i>	Endangered
	Coosa moccasinshell	<i>Medionidus parvulus</i>	Endangered
	Southern pigtoe	<i>Pleurobema georgianum</i>	Endangered
	Painted rocksnail	<i>Leptoxis taeniata</i>	Threatened
	Mohr's Barbara button	<i>Marshallia mohrii</i>	Threatened
	Green pitcher-plant	<i>Sarracenia oreophila</i>	Endangered
Flowering Plants	White fingeless orchid	<i>Platanthera integrilabia</i>	Candidate
	Tennessee yellow-eyed grass	<i>Xyris tennesseensis</i>	Endangered

In its Environmental Report, NSR states that it received comments from USFWS stating that none of these federally listed species would be affected by the proposed abandonment. However, OEA has not received a copy of correspondence with USFWS. Accordingly, OEA will recommend a condition requiring NSR to consult with USFWS regarding the potential impacts of the proposed abandonment to federally listed threatened and endangered species prior to commencing salvage activities and to report to OEA the results of these consultations. NSR may also submit any previous correspondence with USFWS to OEA.

NSR has requested comments from the National Park Service (NPS) regarding the potential impact of the proposed abandonment on wildlife sanctuaries or refuges, parks, or other protected areas, but has received no response to date. In its review of available geospatial data, OEA has concluded that the proposed abandonment is not located in or adjacent to any local or national park; wildlife sanctuary or refuge; or other protected area. Accordingly, no mitigation regarding protected areas is recommended.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to the following agencies for their review and comment: Alabama Department of Environmental Management.

## **HISTORIC REVIEW**

According to NSR, the Line was originally constructed in 1883 by the Anniston and Atlantic Railroad (A&A) founded by A.L. Tyler of Anniston, Alabama. The A&A was consolidated with Anniston & Cincinnati Railroad (A&C) to form the Alabama Mineral Railroad Company (AM RR) in 1890 and was acquired, along with other AM RR assets, by the Louisville and Nashville Railroad Company (L&N) in 1903. L&N was subsequently acquired by CSX Transportation, Inc. (CSXT), which sold the line Eastern Alabama Railway (EARLY), then a subsidiary of Kyle Railways (KYLE). NSR ultimately purchased the Line from EARLY in 1993.

There is one bridge on the Line, located near milepost LAM 508.37 south of West 13<sup>th</sup> Street in the City of Anniston. NSR states that it does not possess any information regarding the construction date or engineering design of this structure. NSF describes the bridge as being approximately twenty feet in length, open deck, and ordinary in design.

NSR served the Historic Report on the Alabama Historical Commission (State Historic Preservation Officer or SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment would not affect any known archaeological sites or historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). The SHPO requests that, should artifacts or archaeological features be encountered during salvage activities, NSR should cease work and report to the SHPO immediately. OEA has reviewed the report and the information provided by the SHPO, and concurs with the SHPO's comments. Accordingly, we will recommend a condition requiring NSR to cease abandonment activities and report to the SHPO and OEA in the event that unanticipated archaeological sites or artifacts are discovered.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that no known historic properties listed in or eligible for inclusion in the National Register would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA,

which have been provided to the SHPO and made available to the public through posting on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov).

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally recognized tribes that may have ancestral connections to the project area.<sup>7</sup> The database indicated that the following federally recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment:

- Eastern Band of Cherokee Indians of North Carolina; and
- Muscogee (Creek) Nation in Oklahoma.

Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

### **CONDITIONS**

We recommend that the following conditions be imposed on any decision granting abandonment authority:

- 1. Prior to commencement of any salvage activities, Norfolk Southern Railway Company (NSR) shall consult with the Alabama Department of Environmental Management regarding the implementation of appropriate and effective Best Management Practices (BMP) for the control of pollutants in storm water run-off and shall comply with all reasonable BMP requirements. NSR shall report the results of these consultations in writing to the Board's Office of Environmental Analysis prior to the onset of salvage operations.**
- 2. Prior to commencement of any salvage activities, Norfolk Southern Railway Company (NSR) shall consult with the U.S. Fish and Wildlife Service regarding potential impacts from salvaging activities to federally listed threatened and endangered species that may occur in the vicinity of the proposed abandonment. NSR shall report the results of these consultations in writing to the Board's Office of Environmental Analysis prior to the onset of salvage operations.**
- 3. In the event that any unanticipated archaeological sites or associated artifacts are discovered during salvage activities, Norfolk Southern Railway Company (NSR) will immediately cease all work and notify the Office of Environmental Analysis (OEA) and the Alabama Historical Commission (State Historic Preservation Office or SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA shall then consult with the SHPO, NSR, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.**

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<sup>7</sup> National Park Service, National NAGPRA Program Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited February 20, 2013).

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption would not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **TRAILS USE**

Requests for a notice of interim trail use (NITU) are due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Joshua Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB 290 (Sub-No. 334X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental

contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at waylandj@stb.dot.gov.

Date made available to the public: February 22, 2013

**Comment due date: March 11, 2013**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis